

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA**

MARTIN P. KIEFABER, on behalf of himself and
all others similarly situated,

Plaintiff,

vs.

HMS NATIONAL, INC., and 1ST CHOICE, INC.
(d/b/a RE/MAX ALLEGIANCE),

Defendants.

Civil Case No. 1:10-cv-1194

**PLAINTIFF'S MOTION TO COMPEL (1) THE PRODUCTION OF DOCUMENTS,
AND (2) THE TESTIMONY OF (A) TWO LOCAL FRANCHISE OFFICERS AND (B) A
REAL ESTATE AGENT WHO HAS VOLUNTARILY PROVIDED TESTIMONY FOR
HMS**

Pursuant to Federal Rule of Civil Procedure 37, Plaintiff Martin P. Kiefaber, by the undersigned counsel, hereby moves to compel the production of documents by Defendant HMS National, Inc. and the testimony of certain witnesses. This motion is based on the grounds set forth in the accompanying memorandum of law, and is also supported by the a declaration of Matthew E. filed herewith.

December 9, 2011

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By: /s/ Robert J. Cynkar

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CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of December, 2011, I electronically filed

- **PLAINTIFFS' MOTION TO COMPEL (1) THE PRODUCTION OF DOCUMENTS, AND (2) THE TESTIMONY OF (A) TWO LOCAL FRANCHISE OFFICERS AND (B) A REAL ESTATE AGENT WHO HAS VOLUNTARILY PROVIDED TESTIMONY FOR HMS**
- **NOTICE OF HEARING**
- **MEMORANDUM IN SUPPORT OF PLAINTIFF'S TO COMPEL (1) THE PRODUCTION OF DOCUMENTS, AND (2) THE TESTIMONY OF (A) TWO LOCAL FRANCHISE OFFICERS AND (B) A REAL ESTATE AGENT WHO HAS VOLUNTARILY PROVIDED TESTIMONY FOR HMS; AND**
- **DECLARATION OF MATTHEW E.**

with the Clerk of Court using the CM/ECF system, which then sent a notification of such filing (NEF) to the following:

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I also served copies by electronic mail and First Class Mail upon David Felsen, Esq., counsel to the Messrs. Pikovsky and Prigal, and Ms. McCort.

There are no parties who have appeared in this action whose counsel is not registered on ECF.

Dated: December 9, 2011

Respectfully Submitted,

/s/ Robert J. Cynkar

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